Case: 1:21-mj-00173
Assigned to: Judge Zia M. Faruqui
Assign Date: 1/27/2021
Description: COMPLAINT W/ ARREST WARRANT

STATEMENT OF FACTS

I am employed as a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed since 2010. My squad is based at the Washington Field Office in Washington, DC. Currently, I am assigned to assist with the investigation into criminal activity in and around the Capitol grounds. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of violations of federal criminal laws.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, DC. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage that appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations

of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

On or about January 8, 2021, multiple tipsters submitted tips online to the FBI to identify a person seen in a widely circulated video by ITV News, a television news network based in the United Kingdom. The video depicted rioters storming the U.S. Capitol building on January 6, 2021. The tipsters provided screenshots or stills from the video, similar to that in Figure 1 below. In the video, available at ITV's website www.itv.com, at approximately the 2 minute 35 second mark, a large group of individuals can be seen streaming in and out of a room in the Capitol building with a curved entryway and a wooden sign above the doorway stating "Speaker of the House Nancy Pelosi." The reporter narrating the video can be heard saying at this moment: "They breached and entered the Speaker's office itself."

At approximately the 2 minute 45 second mark, a male with a graying beard, wearing a red "Trump 2020" hat and red bandanna around his neck (PERSON 1) appears to be standing near the same office with the curved entryway, except the wooden sign is missing from above the door. PERSON 1 then appears to be saying "here you go, here you go, brother" while holding up a broken engraved piece of wood. Standing next to PERSON 1 and holding up the same piece of wood is a female with brown hair, round sunglasses, and a white and gray winter hat (PERSON 2). The fractured wood appears to be a piece of the same wooden sign previously seen above the Speaker's office, as the words "the House" and letters "Nancy" are clearly visible (*see* Figure 1).

Figure 1

In a tip to the FBI, TIPSTER 1 identified PERSON 2, as seen in the video, as an individual named EMILY HERNANDEZ. TIPSTER 1 advised that HERNANDEZ was from Sullivan, Missouri. The FBI contacted TIPSTER 1, who confirmed the information provided to the FBI online and advised that TIPSTER 1 and HERNANDEZ had mutual acquaintances. TIPSTER 1 recognized HERNANDEZ through their association on social media.

On or about January 12, 2021, the FBI learned through an additional tip that PERSON 2 was HERNANDEZ. The FBI contacted TIPSTER 2, who confirmed via email that PERSON 2 was HERNANDEZ. TIPSTER 2 further advised that they did not know HERNANDEZ personally

but had mutual acquaintances who were connected to HERNANDEZ through social media. At the request of the FBI, TIPSTER 2 consulted the mutual acquaintances that he/she shared with HERNANDEZ and reported back that PERSON 1 was believed to be HERNANDEZ's uncle. TIPSTER 2 recommended that the FBI contact INTERVIEWEE 1, an individual who was introduced to HERNANDEZ through mutual acquaintances but has not seen her in several years.

On or about January 13, 2021, the FBI contacted INTERVIEWEE 1, who advised that HERNANDEZ had said she had gone to Washington, DC with her uncle the day of the Capitol riot.

The FBI conducted research on public source databases and identified HERNANDEZ's parents. Additional open source searches revealed that HERNANDEZ's mother's maiden name was Merry. Using open source searches of HERNANDEZ's father's Facebook profile, the FBI identified a Facebook profile for a "Bill Merry" (username "bill.merry.90") and discovered a photograph of Bill Merry and a female who resembled HERNANDEZ at a St. Louis Cardinals baseball game (*see* Figure 2).

Figure 2

On or about January 18, 2021, the FBI confirmed through TIPSTER 2 that HERNANDEZ was the female standing next to MERRY at the St. Louis Cardinals baseball game, as seen in Figure 2.

On or about January 20, 2021, the FBI searched a government database and located a vehicle registration in MERRY's name, last updated on June 19, 2019. The vehicle registration listed MERRY as the owner of the vehicle with a notation that the vehicle would transfer on death ("TOD") to an "Emily Hernandez."

On or about January 21, 2021, the FBI discovered an image submitted by TIPSTER 3 of what appears to be PERSON 1 outdoors in a crowd holding up the same fractured wooden sign

previously seen above the Speaker's office, with the words "the House" and letters "Nancy" visible (*see* Figure 3). A woman resembling HERNANDEZ, with the same hat and sunglasses, can be seen standing behind him. TIPSTER 3 is an individual who does not know MERRY or HERNANDEZ personally but had submitted a photograph of the Capitol riot to the FBI on or about January 10, 2021.

Figure 3

On or about January 21, 2021, the FBI served legal process on Facebook for username "bill.merry.90". In response to the legal process, Facebook returned two telephone numbers attributed to the Facebook account: a number ending in -1340 and a number ending in -1235.

On or about January 21, 2021, the FBI served legal process on AT&T for the two phone numbers identified by Facebook. In response, AT&T returned the following information: telephone number ending in -1340 is currently registered to a different individual and thus appears to be an old telephone number of WILLIAM MERRY; and telephone number ending in -1235 is still registered to WILLIAM MERRY at the same residence that appears on MERRY's driver's license and on the vehicle registration described above.

The FBI conducted research in government databases and learned that there was an individual named WILLIAM MERRY associated with a residence in St. Louis, Missouri. A search of government databases returned a driver's license with a photograph of WILLIAM MERRY, which lists the same residence in St. Louis, MO. In comparing various images, the images of PERSON 1 (as seen in Figures 1 and 3) and the individual standing next to HERNANDEZ in Figure 2 are consistent with the physical appearance of WILLIAM MERRY, as seen in his driver's license photograph.

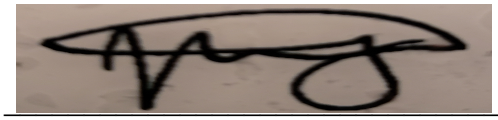
On or about January 14, 2021, the FBI consulted with the House of Representatives' curator to determine the value of the Speaker's name plate that had been posted above her office. The curator estimated that the cost to replace the name plate would be $870.

Based on the foregoing, your affiant submits that there is probable cause to believe that WILLIAM MERRY violated:

18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a "restricted building" includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance;

40 U.S.C. § 5104(e)(2), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings; and

18 U.S.C. § 641, which makes it a crime for a person to embezzle, steal, purloin, or knowingly convert to his use or the use of another, or without authority, sell, convey or dispose of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or receive, conceal, or retain the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted.



Jorge Herrera
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 27th day of January 2021.

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ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE